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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 48th MEETING IN 1990

Held at the Palais des Nations, Geneva,
on Tuesday, 11 December 1990, at 3 p.m.

Chairman: Mr. KOUZNETZOV

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SUBMISSION OF REPORTS BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)

Application of the International Covenant on Economic, Social and Cultural Rights: draft proposal for revised guidelines (E/C.12/1990/CRP.3)

1. The CHAIRMAN invited the members of the Committee to comment on the draft proposal for revised guidelines prepared by Mr. Simma, addressing only specific points in the guidelines, as Mr. Sparsis and Mrs. Jimenez Butragueño had requested.

2. Mrs. JIMENEZ BUTRAGUEÑO proposed a few amendments to part B. Like Ms. Taya, she felt that a paragraph on international co-operation might be added. In the first series of questions on article 9, States might be asked what proportion of their national budget was allocated to social security expenditure and to social welfare as a whole. She had already asked the Rapporteur whether a section on a possible minimum income threshold could be inserted either at the end of the questions on article 9 or among the questions dealing with poverty. In Spain, where the budget had been slashed, such thresholds had been established for certain groups. The Committee should further inquire whether there was any system of benefits whose provision would not be dependent on contributions. With regard to article 12, States might be requested to indicate the proportion of the national budget earmarked for health assistance, and, in respect of article 13, the proportion earmarked for education. States should also specify the proportion of the national budget allocated to the dissemination and promotion of culture as well as to the preservation of cultural property, because culture was too often treated as a poor relation. Regarding article 15, States might be asked to indicate whether any legislative or other measures were being taken by decentralized bodies, for otherwise the Committee would be giving the impression that it was only interested in the measures taken by the central government. Lastly, statistics should also be provided on the fertility rate, and the breakdown of the population by age, including the number of persons over 65. On that subject, she requested that the elderly should be mentioned after children in the list of vulnerable groups in the amendment proposed by Mr. Alston to section 2 of the draft proposal for revised guidelines concerning article 11.

3. Mr. SPARSIS, noting that in section 2 (c) concerning article 7, States parties were requested to supply data on the remuneration of comparable jobs in the public and private sectors, said that, to his knowledge, even in Europe, there were certainly no more than two States which made any comparable studies on remuneration in the public and private sectors. He therefore proposed adding the words "if available" in paragraph (c).

4. Concerning article 8, he proposed that States should be asked to indicate whether they had acceded to ILO Convention No. 151 concerning the public sector, which, in a number of countries, affected around 30 per cent of the economically active population. Information should also be requested on the steps taken or contemplated to promote collective agreements in keeping with ILO Conventions Nos. 87, 98 and 151.

5. Mr. FOFANA said that the questions were addressed not only to the countries which had not yet submitted initial reports but also to those submitting periodic reports. In the latter case, the Committee needed to know whether progress had been achieved in implementing the Covenant since submission of the initial report.

6. Mr. ALSTON asked Mr. Simma to reflect on a number of points. Regarding article 6, he did not think that a country could provide very useful information on the measures it had taken to ensure that work was as productive as possible. Besides, the information requested on technical and vocational training programmes was not defined clearly enough and the responses might be too vague. In his view, it was wrong to ask a State, in item 2 (b), to describe the situation concerning vocational guidance and training, employment and occupation according to race, colour, sex, religion or political opinion. He certainly hoped that no liberal government worthy of the name would be able or willing to do so. Concerning article 7, it was not very realistic to ask States in item 2 (a) to indicate the extent to which workers participated in capital gains.

7. He wished to propose a number of amendments to the section of the guidelines dealing with article 11. In paragraph 1 (b) it would be better to delete any reference to regional organizations because the Committee could not obtain their reports easily. In his view, the replies to item 3 (c) (iii) would not be very useful and might well turn out to contain a mass of unexploitable information, just like those to item 3 (b) (iii). Regarding the latter point, he assumed that Mr. Simma's only concern was to know the rules which could help the population to obtain housing. Regarding paragraph 4, the questions asked about the environment were much too broad in scope and he did not think that countries would be able to answer them satisfactorily. Furthermore, the Committee lacked experience in that field and did not know the relevant norms. It would therefore be preferable to delete item 4.

8. Mrs. PINET (World Health Organization - WHO) said she hoped that the draft proposal for revised guidelines could be adopted at the current session. As far as she was concerned, she would confine herself to making a few suggestions. It would be helpful to ask Governments to communicate to all the international organizations concerned any reports they drafted for the others. Such a step would be doubly useful: the international organizations would not need to ask Governments repeatedly for the same information and, when Governments received questionnaires from certain international organizations, they would have the satisfaction of knowing that the latter were informed of the work that they were doing with others. That would be particularly helpful when the reports or questionnaires had to be divided into several parts and sent to different ministries.

9. The questions concerning article 12 were well formulated because they used WHO indicators and invited Governments to forward to the Committee copies of reports which they had recently submitted to WHO. She could also transmit that documentation directly to the Committee, particularly any information from the second evaluation which had just been completed. She suggested that the Committee should ask Governments whether they had formulated a health policy and whether they could provide the relevant document in order to facilitate assessment of the progress made. Along the same lines, she found

Mrs. Jimenez Butragueño's proposal to ask Governments to state what proportion of the national budget was devoted to health expenditure very useful. She noted that the guidelines stressed medical and curative care but not preventive measures and pointed out that even countries which were facing economic difficulties could improve the exercise of human rights in respect of health by disseminating health information.

10. In item 3 under article 12, States were requested to define the groups that were disadvantaged as far as health was concerned but she felt that the disadvantaged groups should also be defined in respect of the right to an adequate standard of living referred to in article 11 and the other rights dealt with in other articles. It would also be helpful if Governments could indicate the proportion of the elderly, who were rapidly increasing in number, especially in the developed countries. In many cases, Governments were no longer able to provide that group with the necessary care and the private sector often filled the gap; but since the latter was largely motivated by economic considerations, the rights of the elderly were not always respected and non-governmental organizations increasingly ensured the protection of the elderly who were placed in institutions. The emergence of that trend should put the Committee on its guard.

11. Paragraph 3, subparagraphs (a), (b), (c) and (d) under article 12 referred to the disadvantaged, but subparagraphs (e), (f), (g) and (h) were different and would be better inserted elsewhere. The wording of subparagraph (f), which one expert had asked to be deleted, could be amended, because the measures contemplated were, in fact, measures to promote and protect occupational health, which could more appropriately be classified under the heading of health than that of the right to work. Lastly, she did not think that the questions under article 12 dealing with environmental hygiene should be deleted, because the countries should take steps to ensure the rights of their population to a healthy environment.

12. Mr. SIMMA, reacting to the suggestions made, said that Mr. Alvarez Vita was right to propose that Governments which failed to respond to the Committee's questions should be asked to explain why. Referring to Mr. Sparsis' proposal, he said that the words "If available, give data" could be added to paragraph 2 of the questions under article 7. In the section on article 8, mention could be made, in paragraph 2, of ILO Convention No. 151, and a question about measures taken to promote collective agreements could be added to paragraph 3 (c).

13. In reply to Mr. Alston's comments, he explained that he had included in paragraph 1 (b) under article 6 the questions dealing with the measures adopted to ensure that work was as productive as possible and on technical and vocational training programmes because they appeared in the ILO questionnaire on Convention No. 122. However, the Committee certainly did not wish to drown in a mass of unexploitable information. Regarding the reports of the international organizations referred to in paragraph 1 (b) under article 11, the Committee might request States parties to send it copies of its reports in order to be sure it received them in case the Secretariat failed to provide them. Turning to Mr. Alston's comments on the guidelines concerning the right to housing (art. 11), he said that he had no difficulty in deleting item 3 (c) (iii). With respect to question 3 (c) (v), he proposed to reword it to make it clearer, for example, by asking States to provide information on

the subject of the building regulations which affected the exercise of the right to housing. He proposed that he and the Rapporteur should confer on a suitable form of words. With regard to paragraph 4, which Mr. Alston had proposed to delete, he explained that he had included a question on the environment to show that the Committee was aware of the link between health and the quality of life on the one hand, and the environment on the other. He had, incidentally, noted with interest that the WHO representative had proposed the inclusion of a question on the environment in the section of the guidelines concerning article 12. He agreed with Mr. Alston that the questions raised in paragraph 4 might produce answers that were too vague or too technical, but he did not think that the paragraph should be deleted.

14. In response to Mr. Fofana's comments, he proposed that the text of paragraph 5 of the section concerning article 9 should be included in the guidelines concerning each of the rights set forth in the Covenant, simply replacing "the right to social security" by the appropriate right. He referred in passing to an error in the English text: "view" should read "review".

15. Mrs. Jimenez Butragueño had proposed including a question on the fertility rate and the breakdown of the population by age. He felt that the question should really be included in the section entitled "Country profile", but as he was opposed to amending section 1 of the "General part", he proposed that that question should be incorporated elsewhere in the draft. He fully agreed with Mrs. Jimenez Butragueño's proposal that States should be asked what proportion of their budgets was earmarked for social expenditure. Regarding the guidelines concerning article 15, he said that he had reproduced the old guidelines almost word for word. He proposed that for the present they should be left as they were, subject to possible amendment later, after States had submitted their replies. Regarding the minimum wage, he said that a question on the subject had been included in paragraph 2 (a) of the guidelines concerning article 7.

16. He fully agreed with Mr. Konate that States which had difficulty in answering the complex questions concerning application of the Covenant should be able to ask the Secretariat for assistance. It would be a good idea for the Secretariat to hold meetings at which experts could directly advise all who were responsible for answering the questionnaire, instead of staging large gatherings where, in his view, only a few persons could tackle technical questions. He proposed that the Committee should include that point in its recommendations to the Secretariat.

17. With regard to paragraph 1 (c) of the draft guidelines concerning article 11, he thought that the concept of "poverty line" should not be deleted because it was interesting to observe the reactions of countries, and especially the industrialized countries, when they were asked whether there was a poverty line and what criteria were used to determine it.

18. Referring to paragraph 2 (a) of the draft guidelines concerning article 15, he recognized that the adjective "natural" was not appropriate and that the issue was rather that of the "cultural" heritage. He therefore had no objection to referring to the heritage as proposed by Mr. Konate.

19. Turning to paragraphs 4 and 5 of the draft guidelines concerning article 15, which Mr. Konate had criticized as being too broad, he admitted that since he had had nothing else to propose he had reproduced the original guidelines almost word for word. He proposed that the Committee should leave those paragraphs as they were until answers were received from States. In that connection, he, like Mr. Neneman, thought that the Committee should first see how States reacted to guidelines, which it would, of course, be free to change later.

20. Mr. Muterahejuru had expressed the fear that such a large number of guidelines might act as a deterrent to developing countries, but he himself had indicated a solution by mentioning the possibility of requesting advisory services assistance.

21. Turning to Mr. Glaiel's comment on item 2 (b) of the guidelines concerning article 6, he said that he had no difficulty in deleting the first phrase, which might be construed as a criticism or as a way of pressuring States which had not ratified those conventions, and instead proceeding directly to the questions.

22. He supported the suggestions put forward by the WHO representative that States should be asked whether they had formulated a health policy and what part of the budget was allocated to health and to ask a question on health education. He also thought that a reference to the groups listed in the guidelines concerning article 11 should be repeated in paragraph 3 of the guidelines concerning article 12, because the questionnaire would probably be divided among different ministries, each of which would reply to the questions falling within its jurisdiction. Lastly, he endorsed the idea of asking States to provide information on the situation of the elderly.

23. Turning to Ms. Taya's proposal that a new section dealing with international co-operation should be added, he explained that he had chosen the course of requesting States to indicate for each right the role played by international assistance in ensuring its effective exercise because the problem differed from one right to another. However, he would leave the choice of approach to the Committee.

24. In view of the shortage of time, he proposed that the Committee should leave it to him to make the amendments requested and finalize the document.

25. Mr. MRATCHKOV agreed with other members of the Committee that the draft proposal for revised guidelines should be adopted at the current session. Nevertheless, he proposed the inclusion in the guidelines concerning each of the rights stipulated in the Covenant of a question on the difficulties encountered by the State in implementing the provisions of the Covenant. That was a question which Governments did not like to answer but which was necessary in order to gain a clear idea of the social, economic and political context in which the Covenant was being applied. Regarding the size of the draft, he felt that the more detailed the guidelines were, the easier it would be to draft reports.

26. Mrs. JIMENEZ BUTRAGUEÑO said that she wished to clear up a misunderstanding: she had not spoken of a minimum wage. She simply wished to add, at the end of paragraph 1 (c) of the guidelines concerning article 11,

a question which would enable the Committee to know whether the State guaranteed needy persons a minimum revenue and, if so, how much. She also endorsed Mr. Fofana's comments concerning periodic reports. She proposed that the text of paragraph 5 of the guidelines concerning article 9 should be included at the end of the guidelines regarding each of the rights stipulated in the Covenant or at the end of the draft, under the heading "Periodic reports", so that it would not be overlooked in the middle of the other guidelines.

27. Ms. TAYA urged that in the introductory part (General) of the draft guidelines, States should be requested to provide information on international co-operation.

28. Mr. SIMMA pointed out to Mr. Mratchkov that there were several references to difficulties encountered in implementing the Covenant. However, he recognized that that question should be systematically asked for each right, just like the one concerning periodic reports, except in the case of article 8, which was more political.

29. He proposed that Ms. Taya, Mr. Alston and himself should meet before the end of the session and draft a proposal for submission to the Committee.

30. The CHAIRMAN said that there appeared to be no major differences of opinion on the draft guidelines submitted by Mr. Simma, since the latter had accepted the proposed variants as far as possible. He also expressed the hope that since the members of the Committee wished to adopt the document at the current session, the question raised by Ms. Taya could be resolved by the end of the meeting.

31. The Committee could adopt Mr. Simma's document right away, with the amendments made at the current meeting, so that it could be transmitted to the Secretariat for inclusion as an annex to the report of the Committee's fifth session. He asked Mr. Simma to make the necessary amendments and to submit a final document before the end of the session.

32. Mr. WIMER ZAMBRANO endorsed the Chairman's suggestion but thought that Mr. Simma should be allowed more time to submit a final document and added that it was, in fact, up to the author to decide whether he could complete the task by the end of the session.

33. Mr. ALSTON fully endorsed Mr. Wimer Zambrano's comments. In his view, it was unrealistic to expect a final document by the end of the session. He therefore proposed that the guidelines as amended by the Committee should be adopted and Mr. Simma and himself given the task of making the necessary amendments and submitting a final document within about a week for transmission to the Secretariat, which would insert it in the report on the Committee's fifth session.

34. Mr. SIMMA felt that it was unrealistic to expect a final version of the guidelines to be available by Friday. Besides, it appeared unlikely that the Committee would have the time to discuss it that day. On the other hand, he was prepared to waive his right to rest and leisure under article 7 (d) over the weekend, in order to be able to submit the final text within the time-limit indicated by Mr. Alston.

35. The CHAIRMAN thanked Mr. Simma for his willingness to co-operate. If there was no objection, he would take it that the Committee wished to adopt the draft proposal for the revised guidelines as amended at the current meeting, on the understanding that the final version of the text, which would be incorporated in the Committee's report on its fifth session, would be transmitted to the Secretariat by 20 December 1990.

36. It was so decided.

37. The CHAIRMAN paid tribute to Mr. Simma, who had made history in the Committee through his contribution to the drafting of the text just adopted. He could not over-emphasize the importance that the guidelines would have for the future work of the Committee, for its relations with the States parties to the Covenant and for the States parties themselves. The document would obviously play a crucial part in the implementation of the rights provided for in the Covenant.

ORGANIZATION OF WORK (agenda item 4) (continued)

Draft general comment concerning the nature of States parties' obligations (article 2, paragraph 1) (continued)

38. Mr. ALSTON said that on the basis of the proposals and comments made the day before by other members of the Committee regarding the draft general comment, he had prepared a series of draft amendments which he would read out.

39. In response to a very judicious remark by Ms. Taya on the overall link between article 2 and the other provisions of the Covenant, he proposed the insertion of a phrase at the end of the first sentence of paragraph 1 which would read: "and must be seen as having a dynamic relationship with all of the other provisions of the Covenant".

40. In paragraph 4, he suggested, in response to a comment by Mr. Konate, that a sentence should be inserted at the end of the paragraph which would read: "However, the ultimate determination as to whether all appropriate measures have been taken remains one for the Committee to decide".

41. In paragraph 8, he proposed, as Mr. Alvarez Vita had suggested, to continue the quotation from the Covenant (art. 2, para. 1) which appeared in the first and second lines of that paragraph so that the beginning of the sentence under consideration would read: "The Committee notes that the undertaking 'to take steps ... by all appropriate means including particularly the adoption of legislative measures'". He further proposed that, in order to take into account the comments made by various members of the Committee, especially by Mr. Marchán Romero, the words at the end of that sentence "provided only that all human rights are thereby respected" should be replaced by the words "provided only that it is democratic and that all human rights are thereby respected". Again in paragraph 8, taking into consideration the comments made by Mr. Alvarez Vita and the other experts, he proposed that a sentence should be added at the end of the paragraph which would read: "The Committee also notes the relevance in this regard of other human rights and in particular the right to development.".

42. At the end of paragraph 9, he proposed the addition of the phrase "and in the context of the full use of the maximum available resources".

43. He also proposed merging paragraphs 10 and 11 into one, in order to meet the objections of Mr. Muterahejuru who was concerned that the wording of the second sentence of paragraph 10 would create a "presumption of guilt" in respect of certain States. Since it was clear from paragraph 11 that States' ability to discharge their obligations depended on the resources at their disposal, he felt that merging the two paragraphs in question would remove any "presumption of guilt".

44. Lastly, as some experts had stressed the need to place greater emphasis on international co-operation, he proposed including a few sentences to that effect at the end of paragraph 15, which would read: "The Committee notes in particular the importance of the Declaration on the Right to Development and the need for States parties to take full account of all of the principles recognized therein. It emphasizes that, in the absence of an active programme of international assistance and co-operation on the part of all those States that are in a position to undertake one, the full realization of economic, social and cultural rights will remain an unfulfilled aspiration in many countries. In this respect, the Committee also recalls the terms of its general comment No. 2."

45. In conclusion, he expressed the hope that taking into account the proposed amendments which he had just read out, the Committee would be able to adopt the draft general comment on article 2, paragraph 1.

46. Mr. KONATE asked Mr. Alston what was the situation regarding article 2, paragraph 3 and, in particular, the possibility for developing countries to derogate from the principle of non-discrimination.

47. Mr. ALSTON said that, in paragraph 1 of the draft general comment under consideration, it was indicated that a separate general comment would be submitted on the question of non-discrimination. That other general comment would deal, in particular, with the provisions of article 2, paragraph 2 but also with the provisions of article 2, paragraph 3 as well as of article 3. If the text of that general comment could be ready in time, he would circulate it to members of the Committee before the end of the current session. In any case, the Committee could rest assured that the text would be submitted to the pre-sessional working group that would meet before the sixth session of the Committee.

48. Mr. NENEMAN said that he wished to make two other suggestions which Mr. Alston could perhaps take into consideration. Firstly, in the event that regressive measures, particularly of a constitutional nature, were taken in a State party, it seemed appropriate that the Committee should be informed that the Government concerned should therefore refer to those measures in its report. Could that idea be included in the draft general comment? Secondly, he wondered about the desirability of explicitly mentioning the right to compulsory and free primary education as part of the minimum core obligation of States parties (p. 5 of the draft general comment), since that concept was more clearly defined in the Covenant than others and in article 14 in particular.

49. Mr. ALSTON replied that he was rather reluctant to accept Mr. Neneman's second suggestion. If the summary records of the travaux préparatoires leading to the drafting of the Covenant were consulted, it would be seen that the intention of the authors of that instrument was that the right to primary education should be achieved progressively in accordance with available resources. While that interpretation did not correspond to that of the Committee, it explained why any mention of the right to primary education among the minimum obligations could be problematic.

50. To take into account Mr. Neneman's first suggestion, which raised a very important issue, he proposed the insertion of a sentence at the end of paragraph 6 which would read: "The Committee would also wish to receive specific information as to any instances in which constitutional provisions relating to economic, social and cultural rights have been weakened or significantly changed".

51. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the draft general comment relating to article 2, paragraph 1, as orally amended by Mr. Alston.

52. It was so decided.

53. The CHAIRMAN noted that the Committee had just adopted a second important document at the same meeting and congratulated Mr. Alston on having devoted so much effort to drafting it.

Questions to be included in the draft report of the Committee on its fifth session

54. Mr. ALSTON, speaking in his capacity as Rapporteur, said that, in addition to the question of non-submission of reports, he intended to address a number of specific issues in the draft report on the fifth session.

55. The first, to which the members of the Committee would certainly have no objection, related to the approval by the Committee of the principle of interaction between the treaty bodies as well as the idea of setting up working groups composed of members of different committees.

56. The second question related to the widest possible dissemination by United Nations information centres or offices of States party reports and of the summary records dealing with consideration of those reports. The matter had already been raised in previous reports, in particular in the report of the Committee on its third session (E/1989/22, para. 351), but the Committee had never received a reply from the Secretary-General on that subject. Consequently, he intended to ask specifically what measures had been taken to follow up that recommendation of the Committee and, if nothing had been done, to ask why.

57. The third question related to the idea of establishing a committee resource room in the Centre for Human Rights (E/1989/22, para. 349). To date, there had been no action on that recommendation, although Mr. Martenson, Under-Secretary-General for Human Rights, had given an assurance that the Secretariat was actively pursuing the matter. The Committee should therefore ask for a clear and definite answer on that matter.

58. The fourth point was the expression of the Committee's thanks to Mr. Wimer Zambrano, who had provided the Committee at its current session with very helpful statistics.

59. In the fifth place, the Committee's report should include specific recommendations on the question of advisory services, which Mr. Konate had very appropriately raised. Now that the Committee had adopted the general guidelines for drafting periodic reports it was high time to begin to organize in-country advisory seminars in States parties to provide technical assistance to the people who would have to apply the guidelines. The Secretariat should be in a position to hold one-week seminars with the participation of three or four experts in countries which requested such services.

60. Lastly, he proposed that the Chairman of the Committee should be asked to send a letter to the International Labour Organisation and the World Health Organization thanking both organizations for the assistance which their respective representatives had given the Committee at its current session and expressing the hope that the Committee would continue to receive such assistance at its forthcoming sessions. That letter should dispel any doubts which anyone in ILO or WHO might entertain as to the usefulness of sending a representative to attend meetings of the Committee.

61. Lastly, it should be indicated in the report that in future, lists of issues or other documents prepared by the pre-sessional working group should be handed to a representative of the mission of the State party involved, with a suitable explanation.

62. With regard to the most delicate question, namely the action to be taken on non-submission of reports, he recalled that, in its report on its fourth session, the Committee had stressed that it was desirable "that more innovative methods should be explored and that consideration might be given to the adoption of a procedure whereby the names of States whose reports were more than three years overdue would be specifically identified in a draft decision or resolution submitted to the Council for its approval" (see E/1990/23, para. 305).

63. In that regard, he pointed out that the firm line taken by the Committee at its current session with regard to the failure of States parties to appear before it had paid off. It was now for the Committee to adopt a similar approach in the case of States which did not even take the trouble to submit a report. The Committee could not allow that situation to continue, because the number of overdue reports would grow exponentially. Moreover, everyone knew that the guidelines might deter some States from submitting a report if they thought that the task was too much for them, and if the Committee had no recourse against that, it was very possible that those States would choose the easy way out.

64. Consequently, he proposed to follow the procedure suggested by the Committee at its fourth session, namely to identify specifically in a draft decision those States whose reports were long overdue. He was, of course, prepared to discuss the criteria to be observed in that matter, for example, the number of year that the report was overdue which should be taken into consideration. He therefore proposed that a draft decision should be included at the beginning of the report on the fifth session and submitted to the

Economic and Social Council for adoption. The Council would then have to take a political decision, as it ought to be, in other words, to determine whether it supported the Committee's view and adopted the draft decision or whether it felt that the time was not ripe to do so. In any case, the Committee had nothing to lose because, by taking that course, it would at least have drawn the Council's attention to the fact that it refused to leave things as they were.

65. Mr. NENEMAN said that he strongly suppported Mr. Alston's suggestion. Although the Committee was pleased to see that there were more and more accessions to the Covenant every year, it would also like the States which contracted obligations under that instrument to discharge them effectively. There was, however, a group of States which had never submitted any reports since acceding to the Covenant, including many quite highly developed countries which would be perfectly capable of submitting reports if they wished. Such negligence might appear shocking to States parties which, despite confronting serious difficulties, nevertheless went to great pains to submit their reports on schedule. Such a demoralizing situation could not be allowed to drag on indefinitely for otherwise the Committee would lose all credibility in the eyes of the international community.

66. Mr. WIMER ZAMBRANO fully endorsed Mr. Alston's proposal and the arguments put forward by Mr. Neneman. The type of recommendation contemplated was in keeping with the common diplomatic practice of drawing attention to certain situations by placing States on a black list or, rather, a "grey list". In that regard, he said that the strength, prestige and capability of the United Nations and its agencies and committees depended to a large extent on the energy they expended and on the image of themselves which they projected to the public. Consequently, he thought that it was particularly important for the Committee to demonstrate its sense of responsibility by adopting Mr. Alston's proposal. The Committee should, furthermore, word its concluding observations on the reports of States parties with great care to indicate clearly to the press and to public opinion what were the criteria used to assess the reports submitted and to give them an accurate idea of its evaluations of the different reports.

67. Mr. KONATE recalled the practice followed in the matter by the General Assembly and the Economic and Social Council, the two deliberative political bodies to which the Committee was answerable and to which Mr. Alston had referred. For a very long time now, the General Assembly, to which the Council reported, regularly included an item entitled "International Covenants on Human Rights" in the agenda of its sessions. The Secretary-General's annual reports to the General Assembly on the subject, like those of the Committee, contained a table showing the status of submission of reports by States parties to the Covenants, and the General Assembly, in the resolutions which it adopted in consequence, merely noted with concern the overdue reports and urged States parties that had not yet done so to submit their reports as quickly as possible. That practice had perhaps not yielded the desired result, since the deliberative political bodies had never seen fit to draw up lists of defaulting States as the ILO did. Nor did treaty bodies of longer standing and greater experience than the Committee seem to have contemplated identifying such States by name. All those examples indicated the need for a cautious approach towards the idea of a black list. He even wondered whether it would be wise to submit a draft decision for consideration by the Economic and Social Council making an appeal to defaulting States, since the Committee

now had the possibility of attending Council sessions and could therefore draw that body's attention to the situation. In the final analysis, he thought it would be sufficient if the Committee, in its report, reminded States of their reporting obligations.

68. Mr. TEXIER pointed out that during the fifth session the experts had seen some States - for example Iran and Afghanistan - appear which would not have done so unless the Committee, at the beginning of the session, had adopted a rather firm position by indicating that it was thinking of considering the reports of some States in the absence of their representatives. The firmness had paid off. It was also true that the tables annexed to the Committee's report had little impact, for a careful reading of them disclosed that there were some States whose reports were long overdue. A more effective way would have to be found to draw attention to the situation. He thought that the idea of submitting a draft decision to that effect to the Economic and Social Council was a good one, but he still had some difficulty visualizing how that text would be worded. The matter was a delicate one because, while it was good to be firm in order to avoid losing all credibility, the most important thing for the Committee to maintain was a dialogue with States parties and to urge them to submit their reports. It should, therefore, avoid exposing those States to public condemnation and use rather measured language. In any event, it was the responsibility of the Economic and Social Council to decide what action it wished to take on such a draft decision.

69. Mr. SPARSIS recalled that the experts had on various occasions stressed the importance of preserving the Committee's autonomy. That autonomy, however, could not be subject to any outside constraints and he therefore felt that it was not necessary for the Committee to pattern its conduct towards States whose reports were overdue on the practice followed by other treaty bodies in that regard.

70. He firmly backed Mr. Alston's proposal. Describing the reactions of States placed on ILO black lists, he noted that that kind of black-listing usually embarrassed Governments. But once the designated States had ratified an international instrument, all that remained for them to do was to make amends by submitting their reports or to dissociate themselves from the family of nations, which was certainly not in their interest, given the advantages that the international community could offer them, particularly in the form of technical assistance. He therefore felt that the Committee should inform the Economic and Social Council of the situation, emphatically expressing its feeling of frustration and disapproval with regard to those States which had repeatedly fallen down on their reporting obligation.

71. Mr. SIMMA pointed out the host that of defaulting States included not only developing countries but also several Western States which could not, like the former, plead a lack of resources. Belgium was a case in point; that country had often been in the forefront of international human rights activities but still had not seen fit to submit its report to the Committee on Economic, Social and Cultural Rights. Countries like that should be called to order. He also referred to the case of Luxembourg which had finally sent two highly qualified representatives to Geneva to present its report to the Committee, with excellent results that clearly showed what even a small country could do provided it was encouraged. In addition, the mere fact that

the Committee was the treaty body with the largest number of overdue reports would justify it in proposing that the Economic and Social Council should adopt a stronger stance than before. Besides, there was really no need for the Committee to copy older bodies in every respect. He was, therefore, in favour of the idea of submitting a draft decision to the Economic and Social Council and agreed with Mr. Alston and Mr. Sparsis on the content of that draft.

72. Mr. MRATCHKOV said that he also strongly supported Mr. Alston's proposal, since one of the Committee's main tasks was to ensure that States fulfilled the most elementary obligation, that of reporting to the Committee. The fact that States in which the Covenant had come into force in 1976 had not presented a single report in 15 years was inadmissible and should be brought to the attention of the Economic and Social Council. He even thought that the Committee would not be exceeding its mandate if it proposed that the Council should specifically identify the defaulting States, because the facts were there to prove it. However, it was for the Council to decide what action should be taken on any proposal by the Committee.

73. Mrs. JIMENEZ BUTRAGUEÑO said that she thought it a very good idea for the Committee to submit a draft decision to the Economic and Social Council drawing the latter's attention to those States which had not submitted their reports. However, the text in question should be couched in very diplomatic language.

74. The CHAIRMAN, speaking in his capacity as an expert, said that he also favoured the idea of a draft decision in which, he felt, the Committee should specifically name those States parties that had not submitted their reports. Nevertheless, since there were many defaulting States and since the Economic and Social Council was, after all, a political body, the Committee should perhaps contemplate drawing the Council's attention only to some of those States - for example, those which had not submitted reports for the previous 5 or 10 years.

75. Mr. ALSTON pointed out that there was no need to take an immediate and definitive decision on the question of the position to be adopted in respect of defaulting States. He gathered that the experts were in general agreement that a draft decision should be submitted to the Council; he proposed to prepare a text, which, incidentally, could be worded in a number of different ways: for example, the Committee could envisage not treating States parties which had failed to submit any reports in over 5 years in the same manner as those which had been in default for more than 10 years. Moreover, in order to allay the concerns of the one member who was reluctant to accept that idea, he suggested that the draft should recall that the States parties in question could request the assistance of the Secretariat's advisory services in drawing up their reports. In his view, such a draft decision would be fully consonant with the concerns repeatedly expressed by the General Assembly, the Council and the Committee.

76. The CHAIRMAN observed that the majority of experts supported the idea of submitting a draft decision on the question to the Council and asked Mr. Alston to prepare it.

The meeting rose at 6.05 p.m.